

House File 262 - Introduced

HOUSE FILE 262

BY HEATON

A BILL FOR

1 An Act establishing an office of administrative hearings within
2 the department of management.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 8.71 Office of administrative
2 hearings — creation, powers, duties.

3 1. For purposes of this section, unless the context
4 otherwise requires:

5 a. "Administrator" means the chief administrative law judge.

6 b. "Office" means the office of administrative hearings of
7 the department of management.

8 2. An independent office of administrative hearings within
9 the department is created to be headed and administered by a
10 chief administrative law judge appointed as administrator of
11 the office by the governor for a term of six years subject
12 to confirmation by the senate. The administrator may be
13 removed by the governor at any time for good cause. The
14 administrator shall coordinate the office's conduct of appeals
15 and administrative hearings as provided by law.

16 3. a. The office shall employ a sufficient number of
17 administrative law judges to conduct proceedings for which
18 agencies are required, by section 17A.11 or any other provision
19 of law, to use an administrative law judge employed by the
20 office. An administrative law judge employed by the office
21 shall not perform duties inconsistent with the judge's duties
22 and responsibilities as an administrative law judge and shall
23 be located in an office that is separated from the offices of
24 the agencies for which that person acts as a presiding officer.
25 Administrative law judges shall be covered by the merit system
26 provisions of chapter 8A, subchapter IV.

27 b. The office shall facilitate, insofar as practicable,
28 specialization by its administrative law judges so that
29 particular judges may become expert in presiding over cases
30 in particular agencies. An agency may, by rule, identify
31 particular classes of its contested cases for which the
32 administrative law judge who acts as presiding officer shall
33 have specified technical expertise. After the adoption of such
34 a rule, the office may assign administrative law judges to
35 preside over those identified particular classes of contested

1 cases only if the administrative law judge possesses the
2 technical expertise specified by agency rule. The office may
3 charge the applicable agency for the costs of any training
4 required by the office's administrative law judges to acquire
5 or maintain the technical expertise specified by agency rule.

6 4. If the office cannot furnish one of its administrative
7 law judges in response to an agency request, the administrator
8 shall designate in writing a full-time employee of an agency
9 other than the requesting agency to serve as administrative
10 law judge for the proceeding, but only with the consent of
11 the employing agency. The designee must possess the same
12 qualifications required of administrative law judges employed
13 by the office.

14 5. The office may furnish administrative law judges on
15 a contract basis to any governmental entity to conduct any
16 proceeding.

17 6. A person shall not be newly employed by the office as
18 an administrative law judge to preside over contested case
19 proceedings unless that person has a license to practice law
20 in this state.

21 7. The office shall adopt rules pursuant to this chapter and
22 chapter 17A to do all of the following:

23 a. To establish procedures for agencies to request and for
24 the administrator to assign administrative law judges employed
25 by the office.

26 b. To establish procedures and adopt forms, consistent
27 with chapter 17A and other provisions of law, to govern
28 administrative law judges employed by the office, but any
29 rules adopted under this paragraph shall be applicable to a
30 particular contested case proceeding only to the extent that
31 they are not inconsistent with the rules of the agency under
32 whose authority that proceeding is conducted. Nothing in this
33 paragraph precludes an agency from establishing procedural
34 requirements otherwise within its authority to govern its
35 contested case proceedings, including requirements with

1 respect to the timeliness of decisions rendered for it by
2 administrative law judges.

3 *c.* To establish standards and procedures for the evaluation,
4 training, promotion, and discipline for the administrative law
5 judges employed by the office. The procedures shall include
6 provisions for each agency for whom a particular administrative
7 law judge presides to submit to the office on a periodic basis
8 the agency's views with respect to the performance of that
9 administrative law judge or the need for specified additional
10 training for that administrative law judge. However, the
11 evaluation, training, promotion, and discipline of all
12 administrative law judges employed by the office shall remain
13 solely within the authority of the office.

14 *d.* To establish, consistent with the provisions of this
15 section and chapter 17A, a code of administrative judicial
16 conduct that is similar in function and substantially
17 equivalent to the Iowa code of judicial conduct, to govern
18 the conduct, in relation to their quasi-judicial functions in
19 contested cases, of all persons who act as presiding officers
20 under the authority of section 17A.11, subsection 1. The code
21 of administrative judicial conduct shall separately specify
22 which provisions are applicable to agency heads or members of
23 multimembered agency heads when they act as presiding officers,
24 taking into account the objectives of the code and the fact
25 that agency heads, unlike administrative law judges, have other
26 duties imposed upon them by law. The code of administrative
27 judicial conduct may also contain separate provisions, which
28 are appropriate and consistent with the objectives of such a
29 code, to govern the conduct of agency heads or the members of
30 multimeter agency heads when they act as presiding officers.
31 However, a provision of the code of administrative judicial
32 conduct shall not be made applicable to agency heads or members
33 of multimeter agency heads unless the application of that
34 provision to agency heads and members of multimeter agency
35 heads has previously been approved by the administrative rules

1 coordinator.

2 e. To facilitate the performance of the responsibilities
3 conferred upon the office by this section, chapter 17A, and any
4 other provision of law.

5 8. The office may do all of the following:

6 a. Provide administrative law judges, upon request, to any
7 agency that is required to or wishes to utilize the services of
8 an administrative law judge employed by the office.

9 b. Maintain a staff of reporters and other personnel.

10 c. Administer the provisions of this section and rules
11 adopted under its authority.

12 9. The office may charge agencies for services rendered and
13 the payment received shall be considered repayment receipts as
14 defined in section 8.2.

15 10. Except to the extent specified otherwise by statute,
16 decisions of administrative law judges employed by the office
17 are subject to review by the agencies for which they act as
18 presiding officers as provided by section 17A.15 or any other
19 provision of law.

20 Sec. 2. Section 10A.106, subsection 1, paragraph a, Code
21 2013, is amended by striking the paragraph.

22 Sec. 3. Section 10A.106, subsection 2, Code 2013, is amended
23 to read as follows:

24 2. The allocation of departmental duties to the divisions of
25 the department in sections 10A.402, and 10A.702, ~~and 10A.801~~
26 does not prohibit the director from reallocating departmental
27 duties within the department.

28 Sec. 4. Section 17A.11, subsection 1, paragraph a,
29 unnumbered paragraph 1, Code 2013, is amended to read as
30 follows:

31 If the agency or an officer of the agency under whose
32 authority the contested case is to take place is a named
33 party to that proceeding or a real party in interest to that
34 proceeding the presiding officer may be, in the discretion
35 of the agency, either the agency, one or more members of a

1 multimember agency, or one or more administrative law judges
2 assigned by the ~~division~~ office of administrative hearings
3 in accordance with the provisions of section ~~10A:801~~ 8.71.
4 However, a party may, within a time period specified by
5 rule, request that the presiding officer be an administrative
6 law judge assigned by the ~~division~~ office of administrative
7 hearings. Except as otherwise provided by statute, the agency
8 shall grant a request by a party for an administrative law
9 judge unless the agency finds, and states reasons for the
10 finding, that any of the following conditions exist:

11 Sec. 5. Section 17A.11, subsection 1, paragraphs b and c,
12 Code 2013, are amended to read as follows:

13 *b.* If the agency or an officer of the agency under whose
14 authority the contested case is to take place is not a named
15 party to that proceeding or a real party in interest to that
16 proceeding the presiding officer may be, in the discretion
17 of the agency, either the agency, one or more members of a
18 multimember agency, an administrative law judge assigned by the
19 ~~division~~ office of administrative hearings in accordance with
20 the provisions of section ~~10A:801~~ 8.71, or any other qualified
21 person designated as a presiding officer by the agency. Any
22 other person designated as a presiding officer by the agency
23 may be employed by and officed in the agency for which that
24 person acts as a presiding officer, but such a person shall
25 not perform duties inconsistent with that person's duties and
26 responsibilities as a presiding officer.

27 *c.* For purposes of paragraph "a", the ~~division~~ office
28 of administrative hearings established in section ~~10A:801~~
29 8.71 shall be treated as a wholly separate agency from the
30 department of ~~inspections and appeals~~ management.

31 Sec. 6. Section 20.6, subsection 4, Code 2013, is amended
32 to read as follows:

33 4. Hold hearings and administer oaths, examine witnesses
34 and documents, take testimony and receive evidence, issue
35 subpoenas to compel the attendance of witnesses and the

1 production of records, and delegate such power to a member
2 of the board, persons appointed or employed by the board,
3 ~~including administrative law judges,~~ or administrative law
4 judges employed by the division office of administrative
5 hearings created by section ~~10A:801~~ 8.71, for the performance
6 of its functions. The board may petition the district court at
7 the seat of government or of the county where a hearing is held
8 to enforce a board order compelling the attendance of witnesses
9 and production of records.

10 Sec. 7. Section 20.11, subsection 2, Code 2013, is amended
11 to read as follows:

12 2. The board may designate one of its members, an
13 administrative law judge employed by the office of
14 administrative hearings created by section 8.71, or any
15 other qualified person employed by the board to serve as the
16 presiding officer at the hearing. The presiding officer has
17 the powers as may be exercised by the board for conducting the
18 hearing and shall follow the procedures adopted by the board
19 for conducting the hearing. The proposed decision of the
20 presiding officer may be appealed to the board, or reviewed
21 on motion of the board, in accordance with the provisions of
22 chapter 17A.

23 Sec. 8. Section 68B.32C, subsection 2, Code 2013, is amended
24 to read as follows:

25 2. Hearings held pursuant to this chapter shall be heard
26 by a quorum of the board, unless the board designates a board
27 member or an administrative law judge employed by the office
28 of administrative hearings created by section 8.71 to preside
29 at the hearing. If a quorum of the board does not preside at
30 the hearing, the board member or administrative law judge shall
31 make a proposed decision. The board or presiding board member
32 may be assisted by an administrative law judge in the conduct
33 of the hearing and the preparation of a decision.

34 Sec. 9. Section 96.6, subsection 3, paragraph b, Code 2013,
35 is amended to read as follows:

1 *b.* Appeals from the initial determination shall be heard
2 by an administrative law judge employed by the ~~department~~
3 office of administrative hearings created by section 8.71.
4 An administrative law judge's decision may be appealed by
5 any party to the employment appeal board created in section
6 10A.601. The decision of the appeal board is final agency
7 action and an appeal of the decision shall be made directly to
8 the district court.

9 Sec. 10. Section 97B.20B, Code 2013, is amended to read as
10 follows:

11 **97B.20B Hearing by administrative law judge.**

12 If an appeal is filed and is not withdrawn, an administrative
13 law judge employed by the office of administrative hearings
14 created by section 8.71 in the department of ~~inspections and~~
15 ~~appeals management~~, after affording the parties reasonable
16 opportunity for fair hearing, shall affirm, modify, or reverse
17 the decision of the system. The hearing shall be recorded
18 by mechanical means and a transcript of the hearing shall be
19 made. The transcript shall then be made available for use by
20 the employment appeal board and by the courts at subsequent
21 judicial review proceedings under the Iowa administrative
22 procedure Act, chapter 17A, if any. The parties shall be duly
23 notified of the administrative law judge's decision, together
24 with the administrative law judge's reasons. The decision is
25 final unless, within thirty days after the date of notification
26 or mailing of the decision, review by the employment appeal
27 board is initiated pursuant to section 97B.27.

28 Sec. 11. Section 123.32, subsection 6, paragraph b, Code
29 2013, is amended to read as follows:

30 *b.* Upon receipt of an application having been approved by
31 the local authority, the division shall make an investigation
32 as the administrator deems necessary to determine that the
33 applicant complies with all requirements for holding a license
34 or permit, and may require the applicant to appear to be
35 examined under oath to demonstrate that the applicant complies

1 with all of the requirements to hold a license or permit. If
 2 the administrator requires the applicant to appear and to
 3 testify under oath, a record shall be made of all testimony or
 4 evidence and the record shall become a part of the application.
 5 The administrator may appoint a member of the division or may
 6 request an administrative law judge employed by the office
 7 of administrative hearings created by section 8.71 of the
 8 department of ~~inspections and appeals~~ management to receive
 9 the testimony under oath and evidence, and to issue a proposed
 10 decision to approve or disapprove the application for a license
 11 or permit. The administrator may affirm, reverse, or modify
 12 the proposed decision to approve or disapprove the application
 13 for the license or permit. If the application is approved
 14 by the administrator, the license or permit shall be issued.
 15 If the application is disapproved by the administrator, the
 16 applicant and the appropriate local authority shall be so
 17 notified by certified mail.

18 Sec. 12. Section 123.32, subsections 7 and 9, Code 2013, are
 19 amended to read as follows:

20 7. *Appeal to administrator.* An applicant for a liquor
 21 control license, wine permit, or beer permit may appeal from
 22 the local authority's disapproval of an application for a
 23 license or permit to the administrator. In the appeal the
 24 applicant shall be allowed the opportunity to demonstrate in
 25 an evidentiary hearing conducted pursuant to chapter 17A that
 26 the applicant complies with all of the requirements for holding
 27 the license or permit. The administrator may appoint a member
 28 of the division or may request an administrative law judge
 29 employed by the office of administrative hearings created in
 30 section 8.71 from the department of ~~inspections and appeals~~
 31 management to conduct the evidentiary hearing and to render a
 32 proposed decision to approve or disapprove the issuance of the
 33 license or permit. The administrator may affirm, reverse, or
 34 modify the proposed decision. If the administrator determines
 35 that the applicant complies with all of the requirements for

1 holding a license or permit, the administrator shall order
2 the issuance of the license or permit. If the administrator
3 determines that the applicant does not comply with the
4 requirements for holding a license or permit, the administrator
5 shall disapprove the issuance of the license or permit.

6 9. *Suspension by local authority.* A liquor control licensee
7 or a wine or beer permittee whose license or permit has been
8 suspended or revoked or a civil penalty imposed by a local
9 authority for a violation of this chapter or suspended by
10 a local authority for violation of a local ordinance may
11 appeal the suspension, revocation, or civil penalty to the
12 administrator. The administrator may appoint a member of the
13 division or may request an administrative law judge employed
14 by the office of administrative hearings created in section
15 8.71 from the department of ~~inspections and appeals~~ management
16 to hear the appeal which shall be conducted in accordance
17 with chapter 17A and to issue a proposed decision. The
18 administrator may review the proposed decision upon the motion
19 of a party to the appeal or upon the administrator's own motion
20 in accordance with chapter 17A. Upon review of the proposed
21 decision, the administrator may affirm, reverse, or modify the
22 proposed decision. A liquor control licensee, wine or beer
23 permittee, or a local authority aggrieved by a decision of the
24 administrator may seek judicial review of the decision pursuant
25 to chapter 17A.

26 Sec. 13. Section 123.39, subsection 1, paragraph a, Code
27 2013, is amended to read as follows:

28 a. The administrator or the local authority may suspend
29 a license or permit issued pursuant to this chapter for a
30 period not to exceed one year, revoke the license or permit,
31 or impose a civil penalty not to exceed one thousand dollars
32 per violation. Before suspension, revocation, or imposition
33 of a civil penalty, the license or permit holder shall be
34 given written notice and an opportunity for a hearing. The
35 administrator may appoint a member of the division or may

1 request an administrative law judge employed by the office
2 of administrative hearings created in section 8.71 from the
3 department of ~~inspections and appeals~~ management to conduct
4 the hearing and issue a proposed decision. Upon the motion
5 of a party to the hearing or upon the administrator's own
6 motion, the administrator may review the proposed decision
7 in accordance with chapter 17A. Upon review of the proposed
8 decision, the administrator may affirm, reverse, or modify the
9 proposed decision. A licensee or permittee aggrieved by a
10 decision of the administrator may seek judicial review of the
11 administrator's decision in accordance with chapter 17A.

12 Sec. 14. Section 216.15, subsection 3, paragraph a, Code
13 2013, is amended to read as follows:

14 a. After the filing of a verified complaint, a true copy
15 shall be served within twenty days on the person against whom
16 the complaint is filed, except as provided in subsection 4.
17 An authorized member of the commission staff shall make a
18 prompt investigation and shall issue a recommendation to an
19 administrative law judge employed ~~either by the commission or~~
20 by the ~~division~~ office of administrative hearings created by
21 section ~~10A-801~~ 8.71, who shall then issue a determination of
22 probable cause or no probable cause.

23 Sec. 15. Section 216.15, subsection 6, Code 2013, is amended
24 to read as follows:

25 6. When the director is satisfied that further endeavor to
26 settle a complaint by conference, conciliation, and persuasion
27 is unworkable and should be bypassed, and the thirty-day period
28 provided for in subsection 3 has expired without agreement, the
29 director with the approval of a commissioner, shall issue and
30 cause to be served a written notice specifying the charges in
31 the complaint as they may have been amended and the reasons for
32 bypassing conciliation, if the conciliation is bypassed, and
33 requiring the respondent to answer the charges of the complaint
34 at a hearing before the commission, a commissioner, or a person
35 designated by the commission to conduct the hearing, who is

1 employed by the office of administrative hearings created in
2 section 8.71 and is hereafter referred to as the administrative
3 law judge, and at a time and place to be specified in the
4 notice.

5 Sec. 16. Section 225C.8, subsection 2, Code 2013, is amended
6 to read as follows:

7 2. The department or the county that received the
8 notification, as applicable, shall respond to the party that
9 provided the notification within forty-five days of receiving
10 the notification. If the parties cannot agree to a settlement
11 as to the person's legal settlement status within ninety days
12 of the date of notification, on motion of any of the parties,
13 the matter shall be referred to the department of ~~inspections~~
14 ~~and appeals management~~ management for a contested case hearing under
15 chapter 17A before an administrative law judge assigned in
16 accordance with section ~~10A:801~~ 8.71 to determine the person's
17 legal settlement status.

18 Sec. 17. Section 256B.6, subsection 4, Code 2013, is amended
19 to read as follows:

20 4. ~~Notwithstanding section 17A.11, the~~ The state board
21 of education shall ~~adopt rules for,~~ consistent with section
22 17A.11, request the appointment of an impartial administrative
23 law judge employed by the office of administrative hearings
24 created in section 8.71 for special education appeals. The
25 ~~rules~~ appointment of an administrative law judge shall comply
26 with federal statutes and regulations.

27 Sec. 18. Section 272.14, Code 2013, is amended to read as
28 follows:

29 **272.14 Appointment of administrative law judges.**

30 The board shall maintain a list of qualified persons,
31 employed by the office of administrative hearings created in
32 section 8.71, who are experienced in the educational system of
33 this state to serve as administrative law judges when a hearing
34 is requested under section 279.24. When requested under
35 section 279.24, the board shall submit a list of five qualified

1 administrative law judges to the parties. The parties shall
2 select one of the five qualified persons to conduct the hearing
3 as provided in section 279.24. The hearing shall be held
4 pursuant to the provisions of chapter 17A relating to contested
5 cases. The full costs of the hearing shall be shared equally
6 by the parties.

7 Sec. 19. Section 279.24, subsection 5, paragraph c, Code
8 2013, is amended to read as follows:

9 c. Within five days after receipt of the written notice
10 that the school board has voted to consider termination of
11 the contract, the administrator may request in writing to
12 the secretary of the school board that the notification be
13 forwarded to the board of educational examiners along with a
14 request that the board of educational examiners submit a list
15 of five qualified administrative law judges employed by the
16 office of administrative hearings created in section 8.71 to
17 the parties. Within three days from receipt of the list the
18 parties shall select an administrative law judge by alternately
19 removing a name from the list until only one name remains.
20 The person whose name remains shall be the administrative law
21 judge. The parties shall determine by lot which party shall
22 remove the first name from the list. The hearing shall be
23 held no sooner than ten days and not later than thirty days
24 following the administrator's request unless the parties
25 otherwise agree. If the administrator does not request a
26 hearing, the school board, not later than May 31, may determine
27 the continuance or discontinuance of the contract and, if the
28 board determines to continue the administrator's contract,
29 whether to suspend the administrator with or without pay for a
30 period specified by the board. School board action shall be by
31 majority roll call vote entered on the minutes of the meeting.
32 Notice of school board action shall be personally delivered or
33 mailed to the administrator.

34 Sec. 20. Section 284.9, subsection 4, Code 2013, is amended
35 to read as follows:

1 4. A teacher who does not receive a recommendation from a
2 review panel may appeal that denial to an administrative law
3 judge employed by the office of administrative hearings created
4 in section 8.71 and located in the department of ~~inspections~~
5 and ~~appeals~~ management. The state shall not be liable for a
6 teacher's attorney fees, costs, or damages that may result from
7 an appeal of a review panel's decision. The state board shall
8 adopt rules to administer this section.

9 Sec. 21. Section 331.394, subsection 5, paragraph c, Code
10 2013, is amended to read as follows:

11 c. The department, county, or region that received the
12 notification, as applicable, shall respond to the party that
13 provided the notification within forty-five days of receiving
14 the notification. If the parties cannot agree to a settlement
15 as to the person's residency status within ninety days of the
16 date of notification, on motion of any of the parties, the
17 matter shall be referred to the department of ~~inspections and~~
18 ~~appeals~~ management for a contested case hearing under chapter
19 17A before an administrative law judge assigned in accordance
20 with section ~~10A:801~~ 8.71 to determine the person's residency
21 status.

22 Sec. 22. Section 331.394, subsection 6, paragraph c, Code
23 2013, is amended to read as follows:

24 c. The department, county, or region that received the
25 notification, as applicable, shall respond to the party
26 that provided the notification within forty-five days of
27 receiving the notification. If the parties cannot agree to a
28 settlement as to the dispute within ninety days of the date
29 of notification, on motion of any of the parties, the matter
30 shall be referred to the department of inspections and appeals
31 for a contested case hearing under chapter 17A before an
32 administrative law judge assigned in accordance with section
33 ~~10A:801~~ 8.71 to determine facts and issue a decision to resolve
34 the dispute.

35 Sec. 23. Section 453A.2, subsection 6, Code 2013, is amended

1 to read as follows:

2 6. If a county or a city has not assessed a penalty pursuant
3 to section 453A.22, subsection 2, for a violation of subsection
4 1, within sixty days of the adjudication of the violation,
5 the matter shall be transferred to and be the exclusive
6 responsibility of the alcoholic beverages division of the
7 department of commerce. Following transfer of the matter, if
8 the violation is contested, the alcoholic beverages division
9 of the department of commerce shall request an administrative
10 hearing before an administrative law judge, assigned by the
11 ~~division office~~ of administrative hearings of the department
12 of ~~inspections and appeals management~~ in accordance with the
13 provisions of section ~~10A:801~~ 8.71, to adjudicate the matter
14 pursuant to chapter 17A.

15 Sec. 24. Section 455B.174, subsection 4, paragraph b, Code
16 2013, is amended to read as follows:

17 b. In addition to the requirements of paragraph "a", a
18 permit shall not be issued to operate or discharge from any
19 disposal system unless the conditions of the permit assure
20 that any discharge from the disposal system meets or will
21 meet all applicable state and federal water quality standards
22 and effluent standards and the issuance of the permit is not
23 otherwise prohibited by the federal Water Pollution Control
24 Act. All applications for discharge permits are subject
25 to public notice and opportunity for public participation
26 including public hearing as the department may by rule require.
27 The director shall promptly notify the applicant in writing
28 of the director's action and, if the permit is denied, state
29 the reasons for denial. A person who is an applicant or
30 permittee may contest the denial of a permit or any condition
31 of a permit issued by the director if the person notifies the
32 director within thirty days of the director's notice of denial
33 or issuance of the permit. Notwithstanding section 17A.11,
34 subsection 1, if the applicant or permittee timely contests
35 the director's action, the presiding officer in the resulting

1 contested case proceeding shall be an administrative law judge
2 assigned by the ~~division~~ office of administrative hearings
3 pursuant to sections ~~10A.801~~ 8.71 and 17A.11.

4 Sec. 25. Section 505.29, Code 2013, is amended to read as
5 follows:

6 **505.29 Administrative hearings.**

7 The commissioner of insurance shall have the authority
8 to appoint as a hearing officer a designee or an independent
9 administrative law judge. Duties of a hearing officer shall
10 include hearing contested cases arising from conduct governed
11 by chapters 502, 502A, this chapter, chapters 505A through
12 523G, and 523I. Sections ~~10A.801~~ 8.71 and 17A.11 ~~do not~~ apply
13 to the appointment of a designee or an administrative law judge
14 pursuant to this section.

15 Sec. 26. Section 724.21A, subsection 1, Code 2013, is
16 amended to read as follows:

17 1. In any case where the sheriff or the commissioner of
18 public safety denies an application for or suspends or revokes
19 a permit to carry weapons or an annual permit to acquire
20 pistols or revolvers, the sheriff or commissioner shall provide
21 a written statement of the reasons for the denial, suspension,
22 or revocation and the applicant or permit holder shall have
23 the right to appeal the denial, suspension, or revocation
24 to an administrative law judge employed by the office of
25 administrative hearings created in section 8.71 in the
26 department of ~~inspections and appeals~~ management within thirty
27 days of receiving written notice of the denial, suspension, or
28 revocation.

29 Sec. 27. Section 903A.1, Code 2013, is amended to read as
30 follows:

31 **903A.1 Conduct review.**

32 The director of the Iowa department of corrections shall
33 appoint independent administrative law judges whose duties
34 shall include but are not limited to review, as provided in
35 section 903A.3, of the conduct of inmates in institutions

1 under the department. Sections ~~10A.801~~ 8.71 and 17A.11 ~~do not~~
2 apply to administrative law judges appointed pursuant to this
3 section.

4 Sec. 28. REPEAL. Section 10A.801, Code 2013, is repealed.

5 Sec. 29. ADMINISTRATIVE RULES — TRANSITION PROVISIONS.

6 1. Any rule, regulation, form, order, or directive
7 promulgated by the department of inspections and appeals and
8 the division of administrative hearings as it relates to the
9 division of administrative hearings which is in effect on the
10 effective date of this Act shall continue in full force and
11 effect until amended, repealed, or supplemented by affirmative
12 action of the office of administrative hearings as established
13 in this Act.

14 2. Any personnel in the state merit system of employment
15 who are mandatorily transferred due to the effect of this Act
16 shall be so transferred without any loss in salary, benefits,
17 or accrued years of service.

18 EXPLANATION

19 This bill establishes an office of administrative hearings
20 within the department of management headed by a chief
21 administrative law judge subject to appointment by the governor
22 and confirmation by the senate.

23 Current law provides for a division of administrative
24 hearings within the department of inspections and appeals
25 headed by an administrator appointed by the director of the
26 department.

27 Current duties and authority of the division are transferred
28 to the new office.

29 In addition to moving the division of administrative
30 hearings of the department of inspections and appeals to
31 the new office of administrative hearings in the department
32 of management, the bill also modifies the authority of
33 various governmental entities relative to the appointment of
34 administrative law judges.

35 Code section 20.6, concerning the powers of the public

1 employment relations board, is amended to eliminate the ability
2 of the board to appoint administrative law judges employed by
3 the board.

4 Code section 68B.32C, concerning the ethics and campaign
5 disclosure board, is amended to provide that any administrative
6 law judge used by the board shall be employed by the office
7 created in the bill.

8 Code section 96.6, concerning the filing of unemployment
9 compensation claims, is amended to provide that appeals shall
10 be heard by an administrative law judge employed by the new
11 office and not by the department of workforce development.

12 Code section 261.15, concerning the civil rights commission,
13 is amended to require that an administrative law judge be
14 employed by the new office created in the bill.

15 Code section 256B.6, concerning the department of education
16 and special education, is amended to provide that the
17 appointment of an administrative law judge by the state board
18 of education shall be through the new office of administrative
19 hearings created in the bill.

20 Code sections 272.14 and 279.24, concerning the educational
21 examiners board, are amended to provide that administrative
22 law judges utilized by the board be administrative law judges
23 employed by the new office of administrative hearings created
24 in the bill.

25 Code section 505.29, concerning administrative hearings by
26 the commissioner of insurance, is amended to require that the
27 appointment of an administrative law judge be done consistent
28 with the requirements of the new office of administrative
29 hearings and Code section 17A.11.

30 Code section 903A.1, concerning the appointment of
31 administrative law judges by the department of corrections, is
32 amended to require that the appointment of an administrative
33 law judge be done consistent with the requirements of the new
34 office of administrative hearings and Code section 17A.11.

35 The bill also includes transition provisions governing

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1 administrative rules and personnel moved from the division of
2 administrative hearings in the department of inspections and
3 appeals to the new office within the department of management.